

IN THE
COURT OF COMMON PLEAS OF PHILADELPHIA
TRIAL DIVISION



*Filed and Attested by the
Office of Judicial Records
12 SEP 2018 10:41 am
A. SILIGRINI*

DONY PIERRE, :
:
Plaintiff, Civil Action

v.

CYNDEEQAH A. CARTER, :
:
MUKESH KUMAR, :
:
USA UNIVERSAL HAIR :
:
ALL AMERICAN CENTRAL LLC :
:
US MED POINT :
:

Defendants

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA**

NOTICE TO DEFEND

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentir una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

Lleve esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio. Vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.

**Philadelphia Bar Association
Lawyer Referral
and Information Service
One Reading Center
Philadelphia, Pennsylvania 19107
(215) 238-6333
TTY (215) 451-6197**

**Asociacion De Licenciados
De Filadelfia
Servicio De Referencia E
Informacion Legal
One Reading Center
Filadelfia, Pennsylvania 19107
(215) 238-6333
TTY (215) 451-6197**

COMPLAINT

WHEREAS, this case arise because the Plaintiff, Dony Pierre has been inundated with unsolicited, Automatic dialing, computerized calls, robocalls and unwanted voice messages by the Defendants, Cyndeeqah A Carter, MUKESH KUMAR, USA UNIVERSAL HAIR, US MED POINT and ALL AMERICAN CENTRAL LLC resulting to every aspect of the Plaintiff's life being disturbed and disrupted by the Defendants. The defendants' never ending unsolicited calls rendered the Plaintiff personal cell phone unusable and with a voicemail that is constantly full with unwanted messages.

PARTIES

Defendant, Cyndeeqah A Carter is calling on behalf and or using the companies called USA UNIVERSAL HAIR, Alias: QUICK LIMO LLC and website usauniversalhair.com, US MED POINT and website usmedpoint.com as front companies to collect payments and or make unsolicited, automatic dialing and robocalls to the Plaintiff private cell phone that is on the "Do Not Call Registry".

Defendant MUKESH KUMAR is using the company called ALL AMERICAN CENTRAL LLC and website called Allamericancentral.com as a front to collect payments and or make unsolicited, automatic dialing and robocalls to the Plaintiff private cell phone that is on the "Do Not Call Registry".

Defendant US MED POINT and website usmedpoint.com, is knowingly calling and or sponsoring unsolicited calls to the Plaintiff's private cell phone that is on the "Do Not Call Registry" hundreds of times

Defendant USA UNIVERSAL HAIR and website usauniversalhair.com, is knowingly calling and or sponsoring unsolicited calls to the Plaintiff's private cell phone that is on the "Do Not Call Registry" hundreds of times

Defendant ALL AMERICAN CENTRAL LLC and website called Allamericancentral.com, is responsible for knowingly calling and or sponsoring unsolicited calls to the Plaintiff's private cell phone that is on the "Do Not Call Registry" hundreds of times.

The Plaintiff HEREBY sue the above Defendants pursuant to;

Telephone Consumer Protection Act, (TCPA)

- 47 U.S.C. 227(b)(1)(A)(iii) prohibits calling cell phones (whether the call is from a live or a recorded message).
- 47 U.S.C. 227(b)(1)(B) prohibits calling landlines or cell phones with a recorded message unless the company calling has a business relationship with the recipient.
- 47 U.S.C. 227(b)(3) provides consumers harmed by violations of the TCPA with the right to sue the violator for \$500 per violation. If the violator knowingly broke the law, the court can order them to pay up to triple damages.

Rules and Regulations Implementing the Telephone Consumer Protection Act

- 47 C.F.R. 64.1200(b)(1) requires that recorded messages state the identity of the business responsible for the call at the beginning, and 64.1200(b) requires that they state the telephone number of the business during the call.
- 47 C.F.R. 64.1200(c)(2) prohibits calling any number on the national Do Not Call list.

Rules and Regulations Implementing the Telemarketing and Consumer Fraud and Abuse Prevention Act

- 16 C.F.R 310.4(b)(iii)(A) prohibits calling anybody who has previously asked not to be called.

BACKGROUND

3. WHEREAS, Defendants Cyndeeqah A Carter and Mukesh Kumar have been terrorizing the Plaintiff with unsolicited and unwanted robocalls for the past 3 years or more. Defendants Cyndeeqah A Carter and Mukesh Kumar are in charge of teams of 5 to 10 people each that they use to call the Plaintiff all day long to try to force him to buy Viagra and Cialis. The Defendants have made the Plaintiff their victim. The Defendants have been calling the Plaintiff relentlessly everyday, 7 days a week, from 7 am up 11pm. The Defendants calls 10 to 15 times everyday, insisting that the Plaintiff buys Viagra and Cialis from them. The Defendants make the Plaintiff life a living hell. The Defendants caused the Plaintiff a lot of stress.

4. The Plaintiff took many steps to block the Defendants calls but was not successful. The Plaintiff keeps telling the Defendants to stop calling, Plaintiff keeps telling the Defendants he does not want to buy Viagra and Cialis from them but the Defendants refuse to stop. The Plaintiff used the block feature of his phone to block hundreds of numbers the Defendants were using to call until the Plaintiff could not block the Defendants calls anymore. The Plaintiff installed many different call blocking apps, robocall blocking apps and spam/spoof call blocking apps on his phone which rendered the Plaintiff phone slow and unusable. The Defendants had unlimited fake numbers and the Plaintiff was not able to block all of them. The Plaintiff was forced to buy a new phone for \$277 that has the more suitable features to block and also record the Defendants' calls.

5. The Defendants continue to call the Plaintiff using all kinds of tricks. The Defendants always call the Plaintiff under false pretense; when the Plaintiff ask for the names of the Defendants and the companies they are calling from the Defendants provided fake names that don't exist. The Defendants always say they are calling from US Online Pharmacy assuming the Plaintiff would not be aware that it means a pharmacy that is online. When Plaintiff look up US Online Pharmacy Plaintiff found out it's just a term that the Defendants made up which does not apply to any particular company or business. There are millions of US Online Pharmacies. When Plaintiff tell the Defendants that there are millions of US Online Pharmacies and asked the Defendants to provide the name of the specific pharmacy the Defendants are calling from most of the time the Defendants would quickly hang-up on the Plaintiff.

6. The Defendants keep making the Plaintiff miserable by calling the Plaintiff 10 to 15 times every day. The Plaintiff is always very frustrated because the Defendants would not stop calling and would not tell the Plaintiff their real names, the name of the companies, the businesses and the pharmacies the Defendants were calling from. The stress caused by the unsolicited call made the Plaintiff angry with the Defendants everytime they call. The Defendants have caused problems between Plaintiff and his wife because the Defendants call so much.

7. Plaintiff could not report the Defendants to any government agency because the Defendants took extreme steps to conceal their identities and the names of the companies and businesses the Defendants were calling from. The Plaintiff did not know who the Defendants were for more than 2 years. The Plaintiff could not do anything to make the Defendants stop calling. The Plaintiff was powerless to take any action and felt powerless for more than 2 years while enduring unsolicited aggressive calls from the Defendants. Plaintiff tried ignoring the Defendants calls but the Defendants never stop calling. The Defendants even increased the number of times they called when Plaintiff ignored their calls.

8. The Plaintiff tried calling back each of the hundreds of numbers the Defendants were calling from to ask the Defendants to remove Plaintiff number from Defendants' call list. Unfortunately, most of those numbers were fake, spam and spoof or redirected numbers and or calls and the Plaintiff receive the message that "the number could not be reach, please check the number and dial again." the Plaintiff continue calling back the numbers the Defendants are calling from and every time the Plaintiff was able to reach the Defendants the Plaintiff made sure to remind the Defendants the Plaintiff number is on the "do not call registry". The Plaintiff also told the Defendants to remove Plaintiff number from Defendants call list and ask Defendants to provide Plaintiff a copy of Defendants' do not call list. The Plaintiff provided Defendants an email address so the Defendants can email Plaintiff the "no call list " to make sure the Plaintiff is in it but the Defendants never provided their no call list to Plaintiff even though they promised to do so.

9. The Defendants always insist that the Plaintiff buy 80 to 100 Viagra or Cialis (40ml or 100ml). When the Defendants are absolutely sure the Plaintiff may be willing to make a purchase then the Defendants reveal the name of companies and Pharmacy they are calling from which are always usmedshop.net, usmedpoint.com and quickactionpharma.me.

10. The Plaintiff discovered that the Defendants also poses as brokers to auction out and sale the Plaintiff name and phone numbers to more unknown telemarketers to call Plaintiff to try to sale more Viagra and Cialis to Plaintiff. The Defendants are very rude and verbally abusive to the Plaintiff

a lot of times. The Defendants curses the Plaintiff many times. The Defendants insulted the Plaintiff all the time. They threaten the Plaintiff some time when the Plaintiff tell Defendants not to call anymore. The Plaintiff never provided to the Defendants nor the people that work with the Defendants any information about the Plaintiff but the Defendants seem to know Plaintiff full name, phone number and Plaintiff old address. Unfortunately, the Defendants only know the old address where the Plaintiff used to live in the past. They don't know the Plaintiff current address since the Plaintiff never gave Defendants an address.

11. There are times when some of the Defendants would try to maintain the impression that they are a real and lawful pharmacy operating under strict policy and government guideline that forbid them from selling Viagra and Cialis to customers without first receiving personal information and address confirmation from the customer. The Plaintiff would always insist that the Defendants already have all the information about the Plaintiff on file. The Plaintiff would tell Defendants that the Plaintiff don't give personal information over the phone. The Defendants would put Plaintiff on hold and then read to Plaintiff his old address. The Plaintiff would reply – I knew you have the address.

12. The Defendants only accept credit cards like visa, discovery or master cards. During research the Plaintiff found out that the Defendants only receive credit card because the Defendants want to charge people internationally so they cannot be traced. The Plaintiff did not want to give the Defendants a credit card because the Plaintiff know that once the Defendants have the Plaintiff credit card the Defendants will charge it and continue to charge it without Plaintiff authorization.

13. The Plaintiff have spent 3 to 5 hours every day for the past 2 years looking up and researching numbers that the Defendants use to call Plaintiff phone and most of the numbers came up as fake. the Plaintiff have spent a lot of money subscribing to number tracing apps and background websites such as www.truthfinder.com and www.beenverified.com but the Defendants were very careful to call Plaintiff with fake and spoof numbers that could not be traced back to the Defendants.

16. Common law recognized consent as a willingness for certain conduct to occur. The Plaintiff has never consented to or given consent to the Defendants to contact Plaintiff using Automatic dialing robocalls, spoof calls and pre-recorded messages and other types of calls. Furthermore, Plaintiff has unequivocally requested for no further communications or contact from the Defendants hundreds of times which is permitted by the TCPA. The TCPA was enacted to address certain invasive practices related to “unrestricted telemarketing,” and is designed to protect consumers from receiving unwanted and intrusive telephone calls.

17. If the Defendants somehow imagine they were given consent by the Plaintiff to continuously call the Plaintiff and willfully use automatic computer dialing, robocall, call spoofing and pre-recorded voice calls and messages, the Plaintiff’s desire to be left alone and not be called was made absolutely clear to the Defendants the hundreds of times the Plaintiff requested not to be called. Congress intended for the TCPA to incorporate the common-law understanding of consent, which generally allows for oral revocation. Allowing consent to be revoked orally is consistent with the government interest articulated in the legislative history of the TCPA—namely, enabling the recipient of incessant and unwanted calls to “tell[] the autodialers to simply stop calling.” The message “Don’t ever call again” was well conveyed the hundreds of times the Plaintiff requested to be removed from the Defendants call list.

Case filed Date: September 12, 2018

WHEREFORE, Plaintiff asks for the following:

1. That the Defendants cease and desist all contact and communication with the Plaintiff for the purpose of advertising, marketing and selling of Viagra and Cialis.
2. Plaintiff be awarded for damages of \$500 for each call received from the defendant that is in violation of the Telephone Consumer Protection Act (TCPA), the Rules and Regulations Implementing the Telephone Consumer Protection Act and the Rules and Regulations Implementing the Telemarketing and Consumer Fraud and Abuse Prevention Act.
3. That Plaintiff be awarded reasonable attorney's fees, court costs, expenses and other reliefs deemed appropriate by the court.
4. Plaintiff also asks for additional damages in an amount to be determined at trial.

CONCLUSION

The Plaintiff is exercising his right as permitted by the TCPA to seek redress for the violations documented above and supported by the evidence provided. The TCPA makes it unlawful for "any person," absent the "prior express consent of the called party," to make any non-emergency call "using any automatic telephone dialing system or an artificial or prerecorded voice to any telephone number assigned to a cellular telephone service[.]" 47 U.S.C. § 227(b)(1)(A)(iii). Anyone who violates the TCPA may be sued in court for "actual monetary loss" or \$500 in damages for each violation, "whichever is greater." § 227(b)(3)(B). Treble damages are also available for knowing or willful violations. § 227(b)(3) (concluding language).

PLAINTIFF

Date: 09/12/2018



DONY PIERRE